



UNITED STATES PATENT AND TRADEMARK OFFICE

cd

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,931	05/01/2001	Ferdinand Kristen	DT-3899	3652

30377 7590 03/26/2003

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019-6018

EXAMINER

HO, TARA

ART UNIT	PAPER NUMBER
----------	--------------

3721

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,931

Applicant(s)

KRISTEN ET AL.

Examiner

Tara M. Ho

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 13 February 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 2/13/2003 have been acknowledged. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: it is not clear what is meant by "collectorless rotor" on page 7, line 16 and the reference sign "I" is used to identify two different oscillation paths.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmid et al. ('076) for the same reasons set forth in paragraph number 8 of paper number 4.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid et al. for the same reasons set forth in paragraph number 11 of paper number 4.

7. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid et al in view of Eisenhardt ('902) for the same reasons set forth in paragraph number 12 of paper number 4.

Response to Arguments

8. Applicant's arguments filed 2/13/2003 have been fully considered but they are not persuasive.

9. Applicant contends that Schmid et al. does not disclose a rotor that is a part of the first subassembly as recited in Claim 1. More specifically, applicant argues that "the rotor, together with the stator and the transmission gear, form part of the second, subassembly that also includes the housing."

This is not found persuasive because a rejection under 35 USC § 102 is deemed proper if a reference discloses all the claimed features. In this instance, Claim 1 merely recites "a rotor of the electrical drive and rotatable about a rotor axis (B) extending parallel to an oscillation path (I)

Art Unit: 3721

of the first subassembly. It is respectfully submitted that various parts of Schmid et al., such as the rotor 9, lie on an oscillation path (I) and perform the recited function. Furthermore, there are two oscillation paths labeled (I) in the drawing and it is not clear as to which one the applicant is referring to.

Therefore, for the reasons above, the grounds of rejection are deemed proper.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara M. Ho whose telephone number is (703)305-8204. The examiner can normally be reached on Mon-Thurs 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703)308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1138.

tmh
February 27, 2003


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700